

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

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IN RE: NUVARING PRODUCTS LIABILITY LITIGATION	)	4:08 MDL 1964 RWS
	)	
	)	ALL CASES
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**MOTION OF NEGOTIATING PLAINTIFFS' COMMITTEE FOR INTERIM  
DISTRIBUTION FROM THE COMMON BENEFIT EXPENSE  
FUND FOR PAYMENT OF EXPENSES**

The Negotiating Plaintiffs' Committee ("NPC"), on behalf of plaintiffs enrolled in the NuvaRing Resolution Program, moves the Court for an Order authorizing the Qualified Settlement Fund Administrator, Analytics Consulting LLC ("Analytics"), to make certain payments for necessary expenses incurred for the common benefit of all plaintiffs from the Common Benefit Expense Fund that was established pursuant to the prior Orders of the Court. (See Doc. 1721- Order Establishing Qualified Settlement Fund for NuvaRing Resolution Program and *see also* Doc. 1723 - Supplemental Order). The Common Benefit Expense Fund totals 4.5% of the One Hundred Million Dollar Settlement, or \$4,500,000.00. No prior distributions have been made from the Expense Fund.

The NPC makes a limited request for immediate distribution in order to pay the outstanding invoices of (1) Special Master Judge Daniel Stack in the sum of \$57,432.00; (2) Professor Lynn Baker, ethics expert retained by the NPC for purposes of the settlement, for the sum of \$115,000.00; and (3) Crivella West, the document management vendor retained by Lead Counsel and the Plaintiffs' Steering Committee, in the sum of \$338,990.63. The immediate satisfaction of these obligations is merited because Special Master Stack's work is necessary to determining whether a final resolution can be achieved as to the final distribution of all common

benefit fees and expenses, which would facilitate the conclusion of this MDL and promote efficiencies for the Court. Professor Lynn Baker's work was an integral component of the administration of this settlement. Finally, Crivella West has agreed to defer compensation for a substantial portion of its services until the resolution of this MDL and this bill has accumulated since August 2010. The total of these outstanding invoices is \$511,422.63. In support of this Motion, the NPC further states that these interim distributions be made for the reasons more fully described:

1. Payment to Special Master Judge Daniel Stack in the sum of \$57,432.00 for his time and expenses incurred in connection with mediating and making recommendations of common benefit fee and expense applications, as directed by this Court pursuant to the Order entered on June 26, 2014 (Doc. 1718). Pursuant to that Order, it had been contemplated that Judge Stack's assignment would be completed by July 25, 2014. However, due to unexpected circumstances, his work is ongoing. Specifically, as described in his time submissions which covers the time period from the date of his appointment through September 30, 2014, Judge Stack has spent an inordinate amount of time reviewing and interpreting time and expense submissions of various law firms that were incomplete, inaccurate, not in compliance with Amended CMO 3 guidelines, or otherwise in disarray.<sup>1</sup> In addition to the considerable time that Judge Stack has spent in carrying out his appointment, he will continue to expend significant time before making a final report and recommendation to the Court in his continued attempts to mediate a resolution of the common benefit fees and expenses as directed by this Court (See Order of June 26, 2014, Doc. 1718). Copies of Special

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<sup>1</sup> This unexpected work has delayed the submission of the final report and recommendation of Judge Stack and has required extensive work on behalf of Liaison Counsel.

Master Stack's invoices are attached as Exhibit "A," which includes detailed summaries of the work he performed pursuant to this Court's Order through September 30, 2014, all of which are reasonable and necessary for the work he has been directed to perform.

2. Payment to Professor Lynn Baker who the NPC retained as ethics counsel for the purpose of reviewing and approving all documents related to the finalization and administration of the NuvaRing Settlement, as well as addressing issues pertaining to common benefit expenses and fees arising under Amended CMO 3. Professor Baker has billed a total of \$175,000.00 of which \$60,000.00 was previously paid from the Plaintiffs' Steering Committee NuvaRing Trust Fund. The balance owed is \$115,000.00. Copies of Professor Baker's invoices are attached as Exhibit "B".
3. Payment in the sum of \$338,990.63 to Crivella West, the document management vendor retained by Lead Counsel and the Plaintiffs' Steering Committee in or about August 2010 for the purpose of providing services necessary to manage and locate documents produced by Defendants given the many restrictions associated with the document production based on the Electronic System Information (ESI) Order agreed to by former Lead Counsel. Specifically, Mr. Blau and Mr. Rheingold agreed to an ESI order that provided for virtually no metadata and contained "key word" restrictions which severely handicapped the review of documents produced by Defendants. Accordingly, the services for Crivella West were necessary under these circumstances. The outstanding bill owed to Crivella West includes charges that the

parties agreed to defer for payment until the resolution of this case. A copy of Crivella West's invoice is attached as Exhibit "C".<sup>2</sup>

The foregoing invoices have been presented by the NPC to Special Master Stack, who has approved each invoice for payment. See Approval of Special Master, attached as Exhibit "D".

WHEREFORE, for the foregoing reasons, the NPC respectfully requests the Court to enter an Order authorizing that Analytics, QSF Administrator, make immediate payment of the disbursements referenced above.

Respectfully submitted,

/s/ Kristine K. Kraft

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<sup>2</sup> Crivella West has agreed to accept a slight reduction of their outstanding bill in an effort to receive earlier payment.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 20<sup>th</sup> 2014, I electronically filed the Motion of Negotiating Plaintiffs' Committee for Interim Distribution from the Common Benefit Expense Fund for Payment of Expenses with the Clerk of the Court using the CM/ECF system which will be served upon counsel of record via the court's electronic case filing system.

/s/ Kristine K. Kraft